Paper No. 14

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parte JEANETTE BUI and MICHAEL WINARDI

Appeal No. 2004-1114
Application No. 10/079,706

ON BRIEF

Before STAAB, McQUADE, and NASE, Administrative Patent Judges.

NASE, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 1 to 6, which are all of the claims pending in this application.

We AFFIRM.

BACKGROUND

The appellants' invention relates to French door dummy handles, knob, and levers and supporting hardware thereof. The invention provides a stop plate incorporating self-aligning and self-tightening features that works with existing knobs and levers to eliminate wobble (specification, p. 1). A copy of claims 2 to 6 is set forth in the appendix to the appellants' brief. Claim 1 reads as follows:

> A stop plate for use with a dummy lockset comprising:
> means for aligning an operating handle of the lockset; and
> means for eliminating rotational movement of the operating handle about a longitudinal axis of the lockset.

The prior art reference of record relied upon by the examiner in rejecting the appealed claims is:

Hart	3,985,008	Oct. 12, 1976

Claims 1 to 4 stand rejected under 35 U.S.C. § 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.[1]

[1] In addition, the examiner objected to the drawings under 37 CFR § 1.83(a) for not showing every feature set forth in claim 1.

Claims 1 to 4 and 6 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Hart.

Claim 5 stand rejected under 35 U.S.C. § 103 as being unpatentable over Hart.

Rather than reiterate the conflicting viewpoints advanced by the examiner and the appellants regarding the above-noted rejections, we make reference to the final rejection (Paper No. 7, mailed December 27, 2002) and the answer (Paper No. 12, mailed September 24, 2003) for the examiner's complete reasoning in support of the rejections, and to the brief (Paper No. 11, filed August 26, 2003) for the appellants' arguments thereagainst.

OPINION

In reaching our decision in this appeal, we have given careful consideration to the appellants' specification and claims, to the applied prior art patent to Hart, and to the respective positions articulated by the appellants and the examiner. As a consequence of our review, we make the determinations which follow.

The enablement rejection

We will not sustain the rejection of claims 1 to 4 under 35 U.S.C. § 112, first paragraph.

Figure 1 of the appellants' application is an exploded view of an exterior dummy leverset chassis 10 for a dummy lockset. The chassis includes a rose liner 12, an exterior sleeve 14 and a retainer 16. The exterior sleeve 14 extends through an aperture 18 in the rose liner 12 and is held in place by the retainer 16. A stop plate 20 with a self-tightening mechanism engages the exterior sleeve 14 and abuts the inner surface of the rose liner 12.

As shown in Figure 2, the stop plate 20 includes a generally circular portion 32 having a central aperture 34 and four arms 36 extending outwardly from the center portion 32. A pair of rectangular fingers 40 extend radially inwardly into the central aperture 34 and are configured to engage slots 28 formed in the exterior sleeve 14. A pair of opposed notches 42 are formed in the circular portion 32 and are configured to engage bosses 22 formed on the rose liner 12.

The appellants teach (specification, pp. 1-2) that:

> The means for aligning includes a sleeve having a slot coupled to the operating handle, and a finger configured to engage the slot. The means for eliminating

> includes a center section and a plurality of resilient arms extending from the center section and out of the plane of the center section.

From these teachings, we understand claim 1 under appeal to be drawn to a stop plate, per se, and not a stop plate combined with other elements (e.g., the rose liner, the exterior sleeve, the dummy lockset, the operating handle). In addition, claim 1 is directed to a combination of two elements expressed in means-plus-function format. As explained in In re Donaldson, 16 F.3d 1189, 1193, 29 USPQ2d 1845, 1848-49 (Fed. Cir. 1994), the USPTO is not exempt from following the statutory mandate of 35 U.S.C. § 112, paragraph 6, which reads:

> An element in a claim for a combination may be expressed as a means or step for performing a specified function without the recital of structure, material, or acts in support thereof, and such claim shall be construed to cover the corresponding structure, material, or acts described in the specification and equivalents thereof.

The court's holding in Donaldson does not conflict with the principle that claims are to be given their "broadest reasonable interpretation" during prosecution. See, e.g., In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-51 (CCPA 1969). Generally speaking, this claim interpretation principle remains intact. Rather, the holding in Donaldson merely sets a limit on how broadly the USPTO may construe means-plus-function language under the rubric of "reasonable interpretation." Per Donaldson, the "broadest reasonable interpretation" that an examiner may give

means-plus-function language is that statutorily mandated in paragraph six. Accordingly, the USPTO may not disregard the structure disclosed in the specification corresponding to such language when rendering a patentability determination. Thus, we construe the "means for aligning an operating handle of the lockset" to cover the finger 40 of the stop plate 20 which is configured to engage slot 28 of the sleeve 14 which is intended to be coupled to an operating handle and we construe the "means for eliminating rotational movement of the operating handle about a longitudinal axis of the lockset" to cover the plurality of resilient arms 36 extending from the center section 46 of the stop plate 20 and out of the plane of the center section.

In our view, the stop plate of claim 1 is clearly shown and described in the appellants' drawings and specification as to enable one skilled in this art to make and use the claimed invention. Accordingly, the decision of the examiner to reject claims 1 to 4 under 35 U.S.C. § 112, first paragraph, is reversed.[2]

The anticipation rejection

In the final rejection (pp. 3-4), the examiner set forth her rationale as to why claims 1 to 4 and 6 were anticipated by Hart under 35 U.S.C. § 102(b).

---

[2] Since the stop plate of claim 1 is clearly shown in the appellants' drawings, the examiner's objection to the drawings under 37 CFR § 1.83(a) for not showing every feature set forth in claim 1 is clearly in error.

The appellants have not specifically contested the rejection of claim 6 in the brief. In fact, the appellants state (brief, p. 7) "[w]ith respect to claim 6, Applicant does not submit any arguments." Accordingly, we summarily sustain the rejection of claim 6 under 35 U.S.C. § 102(b).

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. Verdegaal Bros. Inc. v. Union Oil Co., 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir.), cert. denied, 484 U.S. 827 (1987). The inquiry as to whether a reference anticipates a claim must focus on what subject matter is encompassed by the claim and what subject matter is described by the reference. As set forth by the court in Kalman v. Kimberly-Clark Corp., 713 F.2d 760, 772, 218 USPQ 781, 789 (Fed. Cir. 1983), cert. denied, 465 U.S. 1026 (1984), it is only necessary for the claims to "'read on' something disclosed in the reference, i.e., all limitations of the claim are found in the reference, or 'fully met' by it."

The teachings of Hart

Hart's invention relates in general to means for securing a door lock in assembly with a door and more particularly to means for securing a lock of a type which includes a case for mounting in a transverse opening in a door, an outer rose liner and an outer

rose received on an outer knob spindle sleeve which projects outwardly from the case, and an outer thimble threaded onto the sleeve to retain the outer rose liner and rose thereon whereby to provide a closure for the transverse opening in the door. Figure 1 is a fragmentary plan view of a door lock assembly embodying the Hart's invention shown assembled with a door, the door and portions of the lock assembly being shown in horizontal section.

A cylindrical lock assembly 10 is mounted on a door 12 which has a transverse cylindrical bore 14 therethrough. The lock assembly 10 comprises an operating unit 16 mounted in the bore 14 and a latch bolt unit 18 mounted in another bore which intersects the bore 14 and opens through the edge of the door 12. The latch bolt unit 18 is releasably connected in a conventional manner to operating mechanism associated with the operating unit for retraction in response to operation of either an inner knob 19 or an outer knob 20. Locking mechanism (not fully shown) is provided to selectively enable or disable the outer knob 20, so that the door may be locked to prevent entry from the outer side, and includes inner locking mechanism operated by a turn button 22 associated with the inner knob 19 and a conventional lock cylinder 24 mounted in the outer knob 20.

The operating unit 16 comprises a generally cylindrical casing coaxially received within the bore 14 and which has inner and outer tubular knob spindle sleeves respectively indicated at 28 and 30 mounted in fixed position thereon. The inner and outer sleeves are generally cylindrical and project axially outwardly from opposite sides of the casing 26 and beyond associated inner and outer faces of the door 12 to provide journal support for inner and outer knob spindles to which the inner and outer knobs 19 and 20 are respectively attached. The operating unit 16 further includes inner and outer rose liners 32 and 34, respectively received on the inner and outer sleeves 28 and 30, which provide closures for the inner and outer ends of the bore 14. A pair of roses, respectively indicated at 36 and 38, cover the rose liners 32 and 34 and comprise the finished trim for the lock assembly 10. The roses and rose liners are retained in engagement with the opposite faces of the door 12 by adjustable inner and outer thimbles 40 and 42 which respectively threadably engage the inner and outer sleeves 28 and 30. Each rose liner has retaining means which engage an associated face of the door to hold the rose liner in fixed position relative to the door as will be hereinafter further discussed. In addition, a means is provided to prevent rotation of the outer spindle sleeve and the outer thimble relative to the outer rose liner whereby the operating unit 16 is retained in fixed position within the bore 14. A means is also provided to connect the outer rose to the outer rose liner to maintain the outer rose in fixed relation to the door.

The outer knob sleeve 30 has a threaded portion 44 on its exterior surface and a radially outwardly opening groove 46 formed therein which extends in an axial direction through the threaded portion. The outer rose liner 34, best shown in Figures 2 and 4, comprises a circular plate which has a generally cylindrical central opening 50 somewhat larger than the diameter of the threaded portion 44, to receive the outer sleeve 30 therethrough. An integral locking tab 52 projects radially into the opening 50 and is received in the groove 46 to restrain the outer rose liner 42 against rotation relative to the outer sleeve 30. Another integral tab 54 projects radially into the opening 50 in diametrically opposed relation to the locking tab 52. The tabs 52 and 54 respectively engage diametrically opposite portions of the outer sleeve 30 to maintain the outer rose liner 34 in generally coaxially alignment with the outer sleeve while the lock assembly 10 is installed on an associated door. A coaxial annular bead 56 formed on the outer rose liner has a cylindrical portion 55 which is received within the bore 14 and engages the wall thereof, as shown in Figure 1, to coaxially align the outer knob sleeve 30 with the bore 14. A plurality of integral cantilever tabs 57 project in a radial direction from the rose liner 34. Spurs 58 struck from or otherwise formed on the tabs 57 cooperate with the outer face of the door 12 to prevent rotation of the outer rose liner 34 relative thereto when the lock assembly 10 is assembled with the door. The outer rose liner 34 also has a circumaxial series axially outwardly opening recesses 59, 59 defined by notches which open into the central opening 50.

The rose 38 comprises a cup shaped trim member which has a generally radially disposed portion 60 and a non-circular peripheral portion 62. An aperture 64 formed in the portion 60 receives the sleeve 30 therethrough and has a diameter substantially equal to the diameter of the opening 50 in the outer rose liner 34. The rose 38 also has a plurality of axially inwardly struck projections 65 near the aperture 64 for engaging the outer rose liner 34 within associated recesses 59. The outer thimble 42 which retains the outer rose 38 and the outer rose liner 34 in assembly with the sleeve 30 comprises a generally cylindrical tubular member, internally threaded at its inner end to threadably engage the threaded portion 44 of spindle 30. The thimble 42 has an inner end portion 66 the diameter of which is smaller than the diameter of the remainder of the thimble and substantially equal to the diameter of the aperture 64 and the opening 50, as best shown in Figure 3. The thimble 42 has a radially disposed axially inwardly facing shoulder 68 adjacent its inner end portion 66 and a pair of diametrically opposed axially inwardly opening slots 70, 70 formed in its inner end portion 66 which respectively receive the tabs 52 and 54. When the lock assembly 10 is assembled on the door 12 the shoulder 68 engages the outer rose 38, which overlies the outer rose liner 34, to retain the outer rose 38 and the outer rose liner 34 in engagement with the outer face of the door 12. The shoulder 68 also overlies and substantially covers the projections 65, thereby concealing the connection between the outer rose 38 and outer rose liner 34.

The examiner's rationale

The examiner in the final rejection (pp. 3-4) and in the answer (pp. 3-5 & 8-9) has set forth in great detail how the subject matter of claim 1 was readable on Hart's outer rose liner 34.

The appellants' argument

The appellants' argue (brief, pp. 6-7) that claim 1 is not anticipated by Hart since Hart's outer knob 20 is free to rotate about outer thimble 42 and thus Hart's outer rose liner 34 does not eliminate rotational movement of the outer knob 20.

Our determination regarding claim 1

In our view, claim 1 is readable on Hart's outer rose liner 34. As set forth above, we understand claim 1 under appeal to be drawn to a stop plate, per se, and not a stop plate combined with other elements (e.g., the rose liner, the exterior sleeve, the dummy lockset, the operating handle). As such, claim 1 is drawn to a stop plate comprising, inter alia, (1) means for aligning an operating handle of the lockset which covers finger 40; and (2) means for eliminating rotational movement of the operating handle about a longitudinal axis of the lockset which covers the plurality of resilient arms 36. We find, that claim 1 is readable on Hart as follows: A stop plate (Hart's outer rose liner 34) for use with a dummy lockset comprising: means for aligning an operating handle of the

lockset (Hart's tab 52); and means for eliminating rotational movement of the operating handle about a longitudinal axis of the lockset (Hart's tabs 57 with spurs 58).

The appellants' argument that claim 1 is not anticipated by Hart since Hart's outer knob 20 is free to rotate is not persuasive since claim 1 is directed to the stop plate, per se, and not a stop plate combined with a nonrotatable operating handle. Hart's outer rose liner 34 is fully capable of being used with a nonrotatable operating handle. Moreover, while Hart's outer knob 20 is free to rotate it also can be selectively prevented from rotating.[3]

For the reasons set forth above, the decision of the examiner to reject claim 1 under 35 U.S.C. § 102(b) is affirmed.

Claims 2 to 4

The appellants have grouped claims 1 to 4 as standing or falling together.[4] Thereby, in accordance with 37 CFR § 1.192(c)(7), claims 2 to 4 fall with claim 1. Thus,

[3] Hart teaches (column 2, lines 21-24) that "[l]ocking mechanism (not fully shown) is provided to selectively enable or disable the outer knob 20, so that the door may be locked to prevent entry from the outer side."

[4] See page 5 of the appellants' brief.

it follows that the decision of the examiner to reject claims 2 to 4 under 35 U.S.C. § 102(b) is also affirmed.

The obviousness rejection

In the final rejection (p. 5), the examiner set forth her rationale as to why claim 5 was unpatentable under 35 U.S.C. § 103 over Hart.

The appellants have not specifically contested this rejection in the brief. In fact, the appellants state (brief, p. 7) "[w]ith respect to claim 5, Applicant does not submit any arguments." Accordingly, we summarily sustain the rejection of claim 5 under 35 U.S.C. § 103.

CONCLUSION

To summarize, the decision of the examiner to reject claims 1 to 4 under 35 U.S.C. § 112, first paragraph, is reversed; the decision of the examiner to reject claims 1 to 4 and 6 under 35 U.S.C. § 102(b) is affirmed; and the decision of the examiner to reject claim 5 under 35 U.S.C. § 103 is affirmed.

Since at least one rejection of each of the appealed claims has been affirmed, the decision of the examiner is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

AFFIRMED

LAWRENCE J. STAAB Administrative Patent Judge	)
JOHN P. McQUADE Administrative Patent Judge	) BOARD OF PATENT) APPEALS) AND) INTERFERENCES
JEFFREY V. NASE Administrative Patent Judge	)

RICHARD J. VELTMAN
BLACK & DECKER CORPORATION
TW-199
701 E. JOPPA ROAD
TOWSON, MD 21286

JVN/jg